

BORA LASKIN LAW LIBRARY



3 1761 03342 9929

COPYRIGHT LAW

VOLUME 1

PROFESSOR ROSEMARY J. COOMBE

**Faculty of Law
University of Toronto**

1998-99

CORA LASHIN LAW LIBRARY

SEP 18 1998

FACULTY OF LAW
UNIVERSITY OF TORONTO


COPYRIGHT LAW

VOLUME 1

PROFESSOR ROSEMARY J. COOMBE

**Faculty of Law
University of Toronto**

1998-99



Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

COPYRIGHT LAW

Professor Rosemary J. Coombe*

TABLE OF CONTENTS

A. HISTORY AND POLICY CONSIDERATIONS

Mark Rose, "The Author as Proprietor" (1988)	1
Henry Perritt, "Property and Innovation" (1996)	34
David Vaver, "Some Agnostic Observations on Intellectual Property" (1991)	41

B. LEGAL AND ADMINISTRATIVE FRAMEWORK

I. CONSTITUTIONAL FRAMEWORK

Section 91 of the Constitution	50
Gendreau, "Recent Developments"	50

II. RELATIONSHIP BETWEEN STATUTE AND COMMON LAW

(i) Statutory Provisions	52
(ii) Comment	53
Estey J. in <u>Compo v. Blue Crest Music</u>	53

III. REGISTRATIONS AND NOTICE REQUIREMENTS (MARKING)

Advantages of Registration	54
Registration Forms	55

*With the assistance of Jenna Wilson and Heather Watts

IV.	<u>COLLECTIVE ADMINISTRATION OF COPYRIGHT</u>	
	(i) Statutory Provisions	57
	(ii) Discussion of Licensing Bodies	
	Hughes on Copyright and Industrial Design	59
	Gillian Davies, "The Public Interest in Collective Administration of Rights (1989)	62
V.	<u>JURISDICTION OF COURTS</u>	66
	Henderson Report (1991)	67
	Henderson Report Updated (1992)	80
C.	<u>AUTHORSHIP AND OWNERSHIP OF COPYRIGHT</u>	
I.	<u>STATUTORY AND TREATY PROVISIONS</u>	86
II.	<u>HOW THE LAW TREATS AUTHORSHIP</u>	
	Peter Jaszi, "Toward a Theory of Copyright: The Metamorphosis of 'Authorship'" (1991)	88
	Jessica Litman, "Copyright as Myth" (1991)	98
	David Lange, "At Play in the Fields of the Word" (1992)	102
III.	<u>DETERMINING THE AUTHOR</u>	
	<u>Donoghue v. Allied Newspapers Ltd.</u>	111
	<u>Kantel v. Grant</u>	116
IV.	<u>THE PROCESS OF AUTHORSHIP IN THE REAL WORLD</u>	
	Excerpt: Martin Elliott, <u>The Rolling Stones Complete Recording Sessions</u> (1990)	127
V.	<u>EXCEPTIONS TO AUTHOR AS OWNER PRINCIPLE</u>	
	(i) Photographs	130

(ii)Sound Recordings	131
(iii)Crown Works	132
"Victoria Entrepreneur Beats Bureaucrats" (1992)	132
<u>Upjohn v. Apotex</u>	133
Law Times	136
(iv)Commissioned Works	137
(v) Contract for Service	
<u>University of London Press Ltd.</u> <u>v. University Tutorial Press Ltd.</u>	138
<u>Beloff v. Pressdam Ltd.</u>	141
<u>Amusements Wiltron v. Mainville</u>	148
(vi) Cinematographic Works	
Impact of NAFTA	150
Gendreau, "Recent Developments" (1994)	151
VI. <u>ASSIGNMENTS AND LICENSES</u>	152
<u>Tedesco v. Bosa</u>	153

D. PREREQUISITES FOR COPYRIGHT:

I. ORIGINALITY

D. Vaver, <u>Copyright</u> (Osgoode, 1993)	160
Jessica Litman, "The Public Domain" (1990)	166
<u>Victoria Park Racing & Recreation Grounds</u> <u>Co. Ltd. v. Taylor</u>	180
<u>Kilvington Bros. Ltd. v. Herbert Goldberg</u>	180

	<u>Feist Publications Inc. v. Rural Telephone Service</u>	184
	<u>Fletcher v. Polka Dot (1993)</u>	189
	<u>U & R Tax Services Ltd. v. H. & R. Block</u>	196
	<u>Teledirect Inc. v. American Business Info</u>	199
II.	<u>IDEA/EXPRESSION DICHOTOMY</u>	
	<u>Moreau v. St-Vincent</u>	202
	<u>Cuisinaire v. South West Imports Ltd.</u>	202
	<u>Horn Abbot Ltd. v. W. B. Coulter Sales Ltd.</u>	204
	Amy B. Cohen, "Copyright Law and the Myth of Objectivity" (1990)	210
	Sipos, "Warning All Authors! Your Own 'Style' May Infringe Your Own Work" (1989)	226
	Rosen, "Reconsidering the Idea/Expression Dichotomy"	234
	<u>Sid & Marty Krofft Television Productions Inc. v. McDonald's Corp.</u>	241
	Karen L. Poston, "All Puff and No Stuff: Avoiding the Idea/Expression Dichotomy"	244
	Cory J. in <u>Apple Computer v. Mackintosh Computers</u>	249
	<u>Software Copyright 'Super Patent'</u>	250
III.	<u>FIXATION</u>	
	Statutory Provision	262
	<u>Canadian Admiral Corp. Ltd. v. Rediffusion Inc.</u>	263
	David Vaver, <u>Copyright</u> (Osgoode, 1993)	264
	<u>Titan Sports v. Mansion House</u>	265

IV. SUBJECT MATTER

Statutory Provisions	267
----------------------	-----

(i) Literary Works

(a) What is a Literary work?

<u>Hollinrake v. Truswell</u>	268
-------------------------------	-----

<u>Exxon Corp. v. Exxon Insurance Consultants Ltd.</u>	273
--	-----

<u>Euclid Industries Canada Ltd. v. Reg Holloway Sales Inc.</u>	277
---	-----

(b) Compilations

The Impact of the NAFTA Amendment Act	280
---------------------------------------	-----

<u>B.C. Jockey Club v. Standen</u>	281
------------------------------------	-----

<u>Elanco Products Ltd. v. Mandops (Agrochemical Specialists) Ltd.</u>	285
--	-----

David Vaver, <u>Copyright</u> (Osgoode, 1993)	291
---	-----

<u>Canadian Admiral v. Rediffusion</u>	295
--	-----

<u>Bulman Group Ltd. v. "One Write" Accounting Systems Ltd.</u>	295
---	-----

<u>Feist Publications v. Rural Telephone Service Co.</u>	296
--	-----

Harris, "Free For the Taking"	299
-------------------------------	-----

(c) Computer Programs

<u>Apple Computer v. MacIntosh Computers (F.C.T.D.), (F.C.A.), (S.C.C.)</u>	305
---	-----

<u>Nintendo of America Inc. v. Camerica</u>	310
---	-----

